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2011-2012 Regular Sessions

I N   S E N A T E

May 3, 2011

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Introduced by Sens. JOHNSON, GRISANTI -- read twice and ordered printed,  
and when printed to be committed to the Committee on Environmental  
Conservation

AN ACT to amend the environmental conservation law, in relation to  
commercial fishing licenses

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-  
BLY, DO ENACT AS FOLLOWS:

1     Section 1. Section 13-0328 of the environmental conservation law, as  
2     amended by chapter 366 of the laws of 2007, is amended to read as  
3     follows:  
4     S 13-0328. Commercial licenses; limited entry.  
5     1. Commercial food fish licenses. Commercial food fish licenses  
6     provided for by section 13-0335 of this title shall be issued as  
7     follows:  
8     a. [for the period beginning July first, nineteen hundred ninety-nine  
9     and ending December thirty-first, nineteen hundred ninety-nine, the  
10    following persons shall be eligible to be issued a commercial food fish  
11    license:  
12    (i) persons who held a valid commercial food fish license in nineteen  
13    hundred ninety-eight;  
14    (ii) persons who held a valid commercial food fish license in nineteen  
15    hundred ninety-six but not in nineteen hundred ninety-seven; and  
16    (iii) persons who submitted applications to the department during the  
17    period commencing January first, nineteen hundred ninety-nine and ending  
18    on the effective date of this section and who were eligible to receive  
19    such license but had not been issued such license during such period.  
20    b.] for the period beginning January first, two thousand [four] TWELVE  
21    through December thirty-first, two thousand [eleven] FIFTEEN, the number  
22    of [residential] RESIDENT commercial food fish licenses and the number  
23    of [non-residential] NON-RESIDENT commercial food fish licenses shall  
24    not exceed the following annual limits:

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets  
[ ] is old law to be omitted.

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1 (i) [for two thousand four, the number of licenses shall be limited to  
2 the greater of the number of licenses issued in two thousand two or the  
3 number of licenses issued in two thousand three;  
4 (ii) for two thousand five, the number of licenses shall be limited to  
5 the number of licenses issued in two thousand four, plus fifty percent  
6 of any difference between the number of licenses issued in two thousand  
7 four and the limit established in subparagraph (i) of this paragraph;  
8 (iii) for two thousand six, the number of licenses shall be limited to  
9 the number of licenses issued in two thousand five, plus fifty percent  
10 of any difference between the number of licenses issued in two thousand  
11 five and the limit established in subparagraph (ii) of this paragraph;  
12 (iv) for two thousand seven, the number of licenses shall be limited  
13 to the number of licenses issued in two thousand six, plus fifty percent  
14 of any difference between the number of licenses issued in two thousand  
15 six and the limit established in subparagraph (iii) of this paragraph;  
16 (v)] for two thousand [eight] TWELVE, the number of licenses shall be  
17 limited to the number of licenses issued in two thousand [seven] ELEVEN,  
18 plus fifty percent of any difference between the number of licenses  
19 issued in two thousand [seven] ELEVEN and [the limit established in  
20 subparagraph (iv) of this paragraph] ONE THOUSAND FIFTY-THREE;  
21 [(vi)] (II) for two thousand [nine] THIRTEEN, the number of licenses  
22 shall be limited to the number of licenses issued in two thousand  
23 [eight] TWELVE, plus fifty percent of any difference between the number  
24 of licenses issued in two thousand [eight] TWELVE and the limit estab-  
25 lished in subparagraph [(v)] (I) of this paragraph;  
26 [(vii)] (III) for two thousand [ten] FOURTEEN, the number of licenses  
27 shall be limited to the number of licenses issued in two thousand [nine]  
28 THIRTEEN, plus fifty percent of any difference between the number of  
29 licenses issued in two thousand [nine] THIRTEEN and the limit estab-  
30 lished in subparagraph [(vi)] (II) of this paragraph;  
31 [(viii)] (IV) for two thousand [eleven] FIFTEEN, the number of  
32 licenses shall be limited to the number of licenses issued in two thou-  
33 sand [ten] FOURTEEN, plus fifty percent of any difference between the  
34 number of licenses issued in two thousand [ten] FOURTEEN and the limit  
35 established in subparagraph [(vii)] (III) of this paragraph.  
36 [c.] B. for the period beginning January first, two thousand TWELVE  
37 through December thirty-first, two thousand [eleven] FIFTEEN, persons  
38 who were issued a commercial food fish license in the previous year  
39 shall be eligible to be issued such license.  
40 [d.] C. for the period beginning January first, two thousand [four]  
41 TWELVE through December thirty-first, two thousand [eleven] FIFTEEN, the  
42 department shall issue commercial food fish licenses to persons who were  
43 not issued such license in the previous year provided that the total  
44 number of such licenses issued to such persons does not exceed the  
45 difference between the number of licenses established in paragraph [b] A  
46 of this subdivision and the number of such licenses issued pursuant to  
47 paragraph [c] B of this subdivision, subject to the following:  
48 (i) licenses shall be issued in the order in which the applications  
49 were received, except that where multiple applications are received by  
50 the department on the same day, applicants for whom the department has  
51 received notice of successful completion of an apprenticeship pursuant  
52 to subdivision seven of this section shall be considered by the depart-  
53 ment prior to other applicants;  
54 (ii) licenses may be issued to individuals only;  
55 (iii) licenses shall be issued to applicants who are sixteen years of  
56 age or older at the time of the application; and

1 (iv) licenses shall be issued only to persons who demonstrate in a  
2 manner acceptable to the department that they received an average of at  
3 least fifteen thousand dollars of income over three consecutive years  
4 from commercial fishing or fishing, or who successfully complete a  
5 commercial food fish apprenticeship pursuant to subdivision seven of  
6 this section. As used in this subparagraph, "commercial fishing" means  
7 the taking and sale of marine resources including fish, shellfish, crus-  
8 tacea or other marine biota and "fishing" means commercial fishing and  
9 carrying fishing passengers for hire. Individuals who wish to qualify  
10 based on income from "fishing" must hold a valid marine and coastal  
11 district party and charter boat license. No more than ten percent of the  
12 licenses issued each year based on income eligibility pursuant to this  
13 paragraph shall be issued to applicants who qualify based solely upon  
14 income derived from operation of or employment by a party or charter  
15 boat.

16 2. Commercial lobster permits. Commercial lobster permits provided for  
17 by section 13-0329 of this title shall be issued as follows:

18 [a. for the period beginning July first, nineteen hundred ninety-nine  
19 and ending December thirty-first, nineteen hundred ninety-nine, the  
20 following persons shall be eligible to be issued a commercial lobster  
21 permit:

22 (i) persons who held a valid commercial lobster permit in nineteen  
23 hundred ninety-eight;

24 (ii) persons who held a valid commercial lobster permit in nineteen  
25 hundred ninety-six but not in nineteen hundred ninety-seven; and

26 (iii) persons who submitted applications to the department during the  
27 period commencing January first, nineteen hundred ninety-nine and ending  
28 on the effective date of this section and who were eligible to receive  
29 such permit but had not been issued such permit during such period.

30 b.] for the period beginning January first, two thousand TWELVE,  
31 through December thirty-first, two thousand [eleven] FIFTEEN, only  
32 persons who were issued a commercial lobster permit in the previous year  
33 shall be eligible to be issued such permit.

34 3. Commercial crab permits. Commercial crab permits provided for by  
35 section 13-0331 of this title shall be issued as follows:

36 a. [for the period beginning July first, nineteen hundred ninety-nine  
37 and ending December thirty-first, nineteen hundred ninety-nine, the  
38 following persons shall be eligible to be issued a commercial crab  
39 permit:

40 (i) persons who held a valid commercial crab permit in nineteen  
41 hundred ninety-eight;

42 (ii) persons who held a valid commercial crab permit in nineteen  
43 hundred ninety-six but not in nineteen hundred ninety-seven; and

44 (iii) persons who submitted applications to the department during the  
45 period commencing January first, nineteen hundred ninety-nine and ending  
46 on the effective date of this section and who were eligible to receive  
47 such permit but had not been issued such permit during such period.

48 b.] for the period beginning January first, two thousand [four] TWELVE  
49 through December thirty-first, two thousand [eleven] FIFTEEN, the number  
50 of [residential] RESIDENT commercial crab permits and the number of  
51 [non-residential] NON-RESIDENT commercial crab permits shall not exceed  
52 the following annual limits:

53 (i) [for two thousand four, the number of permits shall be limited to  
54 the greater of the number of permits issued in two thousand two or the  
55 number of permits issued in two thousand three;

1 (ii) for two thousand five, the number of permits shall be limited to  
2 the number of permits issued in two thousand four, plus fifty percent of  
3 any difference between the number of permits issued in two thousand four  
4 and the limit established in subparagraph (i) of this paragraph;  
5 (iii) for two thousand six, the number of permits shall be limited to  
6 the number of permits issued in two thousand five, plus fifty percent of  
7 any difference between the number of permits issued in two thousand five  
8 and the limit established in subparagraph (ii) of this paragraph;  
9 (iv) for two thousand seven, the number of licenses shall be limited  
10 to the number of permits issued in two thousand six, plus fifty percent  
11 of any difference between the number of permits issued in two thousand  
12 six and the limit established in subparagraph (iii) of this paragraph;  
13 (v)] for two thousand [eight] TWELVE, the number of permits shall be  
14 limited to the number of permits issued in two thousand [seven] ELEVEN,  
15 plus fifty percent of any difference between the number of permits  
16 issued in two thousand [seven] ELEVEN and [the limit established in  
17 subparagraph (iv) of this paragraph] SIX HUNDRED SIXTEEN;  
18 [(vi)] (II) for two thousand [nine] THIRTEEN, the number of permits  
19 shall be limited to the number of permits issued in two thousand [eight]  
20 TWELVE, plus fifty percent of any difference between the number of  
21 permits issued in two thousand [eight] TWELVE and the limit established  
22 in subparagraph [(v)] (I) of this paragraph;  
23 [(vii)] (III) for two thousand [ten] FOURTEEN, the number of permits  
24 shall be limited to the number of permits issued in two thousand [nine]  
25 THIRTEEN, plus fifty percent of any difference between the number of  
26 permits issued in two thousand [nine] THIRTEEN and the limit established  
27 in subparagraph [(vi)] (II) of this paragraph;  
28 [(viii)] (IV) for two thousand [eleven] FIFTEEN, the number of permits  
29 shall be limited to the number of permits issued in two thousand [ten]  
30 FOURTEEN, plus fifty percent of any difference between the number of  
31 permits issued in two thousand [ten] FOURTEEN and the limit established  
32 in subparagraph [(vii)] (III) of this paragraph.  
33 [c.] B. for the period beginning January first, two thousand TWELVE  
34 through December thirty-first, two thousand [eleven] FIFTEEN, persons  
35 who were issued a commercial crab permit in the previous year shall be  
36 eligible to be issued such permit.  
37 [d.] C. for the period beginning January first, two thousand [four]  
38 TWELVE through December thirty-first, two thousand [eleven] FIFTEEN, the  
39 department shall issue commercial crab permits to persons who were not  
40 issued such permit in the previous year provided that the total number  
41 of such permits issued to such persons does not exceed the difference  
42 between the number of permits established in paragraph [b] A of this  
43 subdivision and the number of such permits issued pursuant to paragraph  
44 [c] B of this subdivision, subject to the following:  
45 (i) permits shall be issued in the order in which the applications  
46 were received, except that where multiple applications are received by  
47 the department on the same day, applicants for whom the department has  
48 received notice of successful completion of an apprenticeship pursuant  
49 to subdivision seven of this section shall be considered by the depart-  
50 ment prior to other applicants;  
51 (ii) permits may be issued to individuals only;  
52 (iii) permits shall be issued to applicants who are sixteen years of  
53 age or older at the time of the application; and  
54 (iv) permits shall be issued only to persons who demonstrate in a  
55 manner acceptable to the department that they received an average of at  
56 least fifteen thousand dollars of income over three consecutive years

1 from commercial fishing or fishing, or who successfully complete an  
2 apprenticeship pursuant to subdivision seven of this section. As used in  
3 this subparagraph, "commercial fishing" means the taking and sale of  
4 marine resources including fish, shellfish, crustacea or other marine  
5 biota and "fishing" means commercial fishing and carrying fishing  
6 passengers for hire. Individuals who wish to qualify based on income  
7 from "fishing" must hold a valid marine and coastal district party and  
8 charter boat license. No more than ten percent of the permits issued  
9 each year based on income eligibility pursuant to this paragraph shall  
10 be issued to applicants who qualify based upon income derived from oper-  
11 ation of or employment by a party or charter boat.

12 4. Commercial whelk or conch licenses. Commercial whelk or conch  
13 licenses provided for by section 13-0330 of this title shall be issued  
14 as follows:

15 a. for the period beginning January first, two thousand [four] TWELVE  
16 through December thirty-first, two thousand [eleven] FIFTEEN, the number  
17 of [residential] RESIDENT commercial whelk or conch licenses and the  
18 number of [non-residential] NON-RESIDENT commercial whelk or conch  
19 licenses shall not exceed the following annual limits:

20 (i) [for two thousand four, the number of licenses shall be limited to  
21 three hundred or the number of licenses issued in two thousand three,  
22 whichever is greater;

23 (ii) for two thousand five, the number of licenses shall be limited to  
24 the number of licenses issued in two thousand four, plus fifty percent  
25 of any difference between the number of licenses issued in two thousand  
26 four and the limit established in subparagraph (i) of this paragraph;

27 (iii) for two thousand six, the number of licenses shall be limited to  
28 the number of licenses issued in two thousand five, plus fifty percent  
29 of any difference between the number of licenses issued in two thousand  
30 five and the limit established in subparagraph (ii) of this paragraph;

31 (iv) for two thousand seven, the number of licenses shall be limited  
32 to the number of licenses issued in two thousand six, plus fifty percent  
33 of any difference between the number of licenses issued in two thousand  
34 six and the limit established in subparagraph (iii) of this paragraph;

35 (v) for two thousand [eight] TWELVE, the number of licenses shall be  
36 limited to the number of licenses issued in two thousand [seven] ELEVEN,  
37 plus fifty percent of any difference between the number of licenses  
38 issued in two thousand [seven] ELEVEN and [the limit established in  
39 subparagraph (iv) of this paragraph] TWO HUNDRED SEVENTY-ONE;

40 [(vi)] (II) for two thousand [nine] THIRTEEN, the number of licenses  
41 shall be limited to the number of licenses issued in two thousand  
42 [eight] TWELVE, plus fifty percent of any difference between the number  
43 of licenses issued in two thousand [eight] TWELVE and the limit estab-  
44 lished in subparagraph [(v)] (I) of this paragraph;

45 [(vii)] (III) for two thousand [ten] FOURTEEN, the number of licenses  
46 shall be limited to the number of licenses issued in two thousand [nine]  
47 THIRTEEN, plus fifty percent of any difference between the number of  
48 licenses issued in two thousand [nine] THIRTEEN and the limit estab-  
49 lished in subparagraph [(vi)] (II) of this paragraph;

50 [(viii)] (IV) for two thousand [eleven] FIFTEEN, the number of  
51 licenses shall be limited to the number of licenses issued in two thou-  
52 sand [ten] FOURTEEN, plus fifty percent of any difference between the  
53 number of licenses issued in two thousand [ten] FOURTEEN and the limit  
54 established in subparagraph [(vii)] (III) of this paragraph.

55 b. for the period beginning January first, two thousand [four] TWELVE  
56 through December thirty-first, two thousand [eleven] FIFTEEN, persons

1 who were issued a commercial whelk or conch license in the previous year  
2 shall be eligible to be issued such license.

3 c. for the period beginning January first, two thousand [four] TWELVE  
4 through December thirty-first, two thousand [eleven] FIFTEEN, persons  
5 who were not issued a commercial whelk or conch license in the previous  
6 year shall be eligible to be issued such license provided that the total  
7 number of such licenses issued to such persons shall not exceed the  
8 difference between the number of licenses established in paragraph a of  
9 this subdivision and the number of such licenses issued pursuant to  
10 paragraph b of this subdivision, subject to the following:

11 (i) licenses shall be issued in the order in which the applications  
12 were received, except that where multiple applications are received by  
13 the department on the same day, applicants for whom the department has  
14 received notice of successful completion of an apprenticeship pursuant  
15 to subdivision seven of this section shall be considered by the depart-  
16 ment prior to other applicants;

17 (ii) licenses may be issued to individuals only;

18 (iii) licenses shall be issued to applicants who are sixteen years of  
19 age or older at the time of the application; and

20 (iv) licenses shall be issued only to persons who demonstrate in a  
21 manner acceptable to the department that they received an average of at  
22 least fifteen thousand dollars of income over three consecutive years  
23 from commercial fishing or fishing, or who successfully complete an  
24 apprenticeship pursuant to subdivision seven of this section. As used in  
25 this subparagraph, "commercial fishing" means the taking and sale of  
26 marine resources including fish, shellfish, crustacea or other marine  
27 biota and "fishing" means commercial fishing and carrying fishing  
28 passengers for hire. Individuals who wish to qualify based on income  
29 from "fishing" must hold a valid marine and coastal district party and  
30 charter boat license. No more than ten percent of the licenses issued  
31 each year pursuant to this paragraph shall be issued to applicants who  
32 qualify based upon income derived from operation of or employment by a  
33 party or charter boat.

34 5. Marine and coastal district party and charter boat licenses. Marine  
35 and coastal district party and charter boat licenses provided for by  
36 section 13-0336 of this title shall be issued as follows, except that  
37 this subdivision shall not apply to the owner or operator of a party  
38 boat or charter boat whose vessel is classified by the United States  
39 Coast Guard as an Inspected Passenger Vessel and which is licensed to  
40 carry more than six passengers:

41 a. [for the years two thousand eight through two thousand eleven, the]  
42 THE annual number of marine and coastal district party and charter boat  
43 licenses issued shall not exceed [the number issued in two thousand  
44 seven by more than one hundred licenses] FIVE HUNDRED SEVENTEEN.

45 b. [for the years two thousand eight through two thousand eleven,  
46 persons] PERSONS who were issued a marine and coastal district party and  
47 charter boat license in the previous year shall be eligible to be issued  
48 such license.

49 c. [for the years two thousand eight through two thousand eleven, the]  
50 THE department shall issue marine and coastal district party and charter  
51 boat licenses to persons who were not issued such license in the previ-  
52 ous year, provided that the total number of [such] licenses issued [to  
53 such persons] does not exceed [the difference between the annual limit  
54 established in paragraph a of this subdivision and the number of such  
55 licenses issued in the previous year pursuant to paragraph b of this  
56 subdivision] FIVE HUNDRED SEVENTEEN, subject to the following:

1 (i) licenses shall be issued in the order in which the applications  
2 were received;

3 (ii) licenses shall be issued only to persons who hold an Uninspected  
4 Passenger Vessel license issued by the United States Coast Guard.

5 6. License or permit reissuance.

6 a. Notwithstanding the provisions of subdivisions one, two, three and  
7 four of this section, the department may permit reissuance of a license  
8 or permit to a member of the immediate family of the prior holder of  
9 such license or permit; provided that the individual to whom the license  
10 or permit is being reissued is at least sixteen years of age. The  
11 department may permit a license or permit holder to designate in writing  
12 a member of his or her immediate family to whom the license or permit  
13 shall be reissued in the event that the license or permit holder dies  
14 prior to surrendering his or her license or permit to the department.

15 b. In the event that a designated immediate family member does not  
16 wish to engage in the commercial fishing activities authorized by such  
17 license or permit, the department may permit such person to identify an  
18 alternate person to whom the license or permit shall be reissued. The  
19 department is authorized to adopt regulations concerning the reissuance  
20 of licenses or permits pursuant to this subdivision.

21 [b.] C. The holder of a reissued license or permit shall engage in the  
22 activity authorized by the license or permit within three years of the  
23 reissuance date. If the license or permit holder fails to engage in such  
24 activity during the three years following reissuance, the license or  
25 permit shall lapse at the end of the three year period and shall not be  
26 renewed unless the department, in its discretion, determines that the  
27 license or permit holder's inactivity was justified by significant hard-  
28 ship or unavoidable circumstances.

29 7. Commercial license apprenticeship program. The department is  
30 authorized to adopt regulations establishing an apprenticeship program  
31 for persons who wish to obtain a commercial crab permit pursuant to  
32 section 13-0331 of this title, a commercial food fish license pursuant  
33 to section 13-0335 of this title or a commercial whelk (conch) license  
34 pursuant to section 13-0330 of this title. Upon successful completion of  
35 the apprenticeship program, a person shall become eligible to receive a  
36 commercial crab permit, commercial food fish license or a commercial  
37 whelk (conch) license, as applicable, subject to the provisions of para-  
38 graph [d] C of subdivision one, paragraph [d] C of subdivision three,  
39 and paragraph c of subdivision four of this section, respectively.

40 S 2. This act shall take effect December 31, 2011.